1 HB419
2 150466-6
3 By Representative DeMarco
4 RFD: Ways and Means Education
5 First Read: 07-MAR-13
ENROLLED, An Act,

Relating to construction projects of the State of Alabama, counties, municipalities, local boards of education, industrial development boards, and other governmental entities which are exempt from the payment of sales and use taxes on the purchase of building materials and construction materials to be included in construction projects of the governmental entity; to provide for the Department of Revenue to grant certificates of exemption from sales and use taxes to contractors and subcontractors licensed by the State Licensing Board for General Contractors for the purchase of building materials and construction materials to be used in the construction of a building or other project for the governmental entity, with the exception of any highway, road, or bridge project; to provide for accounting for purchases and enforcement for violation of the act; and to authorize the Department of Revenue to adopt rules to implement the act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) For the purposes of this act, the term "governmental entity" means any governmental entity or a political subdivision, department, or agency of a governmental entity or a board, commission, or authority of a governmental entity which is tax-exempt from sales and use taxes by virtue of its governmental status, including, but not limited to, all
of the following: The State of Alabama, a county, a
municipality, an industrial or economic development board or
authority, and an educational institution of any of the
foregoing including a public college or university, a county
term "governmental entity" means the State of Alabama and its
political subdivisions, including a county, a municipality,
and an industrial or economic development board or authority.
A governmental entity shall also include an educational
institutions of any of the foregoing Alabama political
subdivisions including a public college or university, a
county or city board of education, and the State Board of
Education.

(b)(1) The Department of Revenue shall issue a
certificate of exemption to the governmental entity for each
tax exempt project.

(b)(2) The Department of Revenue shall grant a
certificate of exemption from state and local sales and use
taxes to any contractor licensed by the State Licensing Board
for General Contractors, or any subcontractor working under
the same contract, for the purchase of building materials,
construction materials and supplies, and other tangible
personal property that becomes part of the structure that is
the subject of a written contract for the construction of a
building or other project, not to include any contract for the
construction of any highway, road, or bridge, for and on
behalf of a governmental entity which is exempt from the payment of sales and use taxes.

(c) The use of a certificate of exemption for the purchase of tangible personal property pursuant to this section shall include only tangible personal property that becomes part of the structure that is the subject of the construction contract. Any contractor or subcontractor purchasing any tangible personal property pursuant to a certificate of exemption shall maintain an accurate cost accounting of the purchase and use of the property in the construction of the project.

(d) A contractor who has an exemption from sales and use tax for the purchase of materials to use on a government project shall file, in a manner as prescribed by the department, an annual report reports of all exempt purchases. The annual report reports shall be filed as a prerequisite to renewal of a certificate of exemption.

(e)(1) The department may assess any contractor or subcontractor with state and local sales or use taxes on any item purchased with a certificate of exemption not properly accounted for and reported as required.

(2) Any contractor or subcontractor who intentionally uses a certificate of exemption in violation of this act shall, in addition to the actual sales or use tax liability due, be subject to a civil penalty levied by the
department in the amount of not less than a minimum of two
thousand dollars ($2,000) or two times any state and local
sales or use tax due for the property and, based on the
contractor's or subcontractor's willful misuse of the
certificate of exemption, may be barred from the use of any
certificate of exemption on any project for up to two years.

(f) The department may adopt rules to implement this
act in order to effectuate the purposes of this act and to
provide for accurate accounting and enforcement of this act.

(g) In bidding the work on a tax exempt project, the
bid form shall provide for an accounting for the tax savings.

(h) The intent of this act is to lower the
administrative cost for the governmental entity, contractor,
and subcontractor for public works projects. It is not the
intent of this act to change the basis for determining
professional services from fair market value, which may
include sales and use taxes.

Section 2. This act shall be operative for contracts
entered into October 1, 2013 January 1, 2014, or thereafter.
and shall not apply to any contract entered into prior to
January 1, 2014. In addition, this act shall not apply to any
contract change orders or contract extensions, including
revised, renegotiated, or altered contracts, when the original
contract was entered into prior to January 1, 2014. The
Department of Revenue may adopt rules to implement this act after the effective date of this act.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective October 1, 2013, following its passage and approval by the Governor, or its otherwise becoming law.
Speaker of the House of Representatives

Kay Ivey

President and Presiding Officer of the Senate

House of Representatives
I hereby certify that the within Act originated in
and was passed by the House 09-APR-13, as amended.

Jeff Woodard
Clerk

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<th>Date</th>
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<tbody>
<tr>
<td>Senate</td>
<td>07-MAY-13</td>
<td>Amended and Passed</td>
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APPROVED May 9, 2013

TIME 5 pm

Robert Bentley
GOVERNOR

Alabama Secretary Of State
Act Num....: 2013-205
Bill Num...: H-419
Recvd 05/10/13 09:49amSLF
HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 419

YEAS 54 NAYS 6

JEFF WOODARD, Clerk

SENATE ACTION

DATE: 4/20 2013
RD 2 CAL

This Bill was referred to the Standing Committee of the Senate on 4/12 and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) 5 w/sub 2 by a vote of yeas 49 nays 0 abstain 0

this 24 day of June 2013
Chairperson

CONFERENCE COMMITTEE

House Conferees

RE-REFERRED RE-COMMITTED

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 419

YEAS 52 NAYS 2

PATRICK HARRIS, Secretary